

# Senate Study Bill 3070 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
TRANSPORTATION BILL BY  
CHAIRPERSON RIELLY)

## A BILL FOR

1 An Act prohibiting the operation of a motor vehicle while  
2 writing, reading, or sending a text-based electronic  
3 communication and providing penalties.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.228, subsection 2, Code 2009, is  
2 amended to read as follows:

3 2. The provisions of sections 321.261 to 321.273, and  
4 sections 321.277, 321.277B, and 321.280 shall apply upon  
5 highways and elsewhere throughout the state.

6 Sec. 2. Section 321.233, Code Supplement 2009, is amended  
7 to read as follows:

8 **321.233 Road workers exempted.**

9 This chapter, except sections 321.277, 321.277B, and  
10 321.280, does not apply to persons and motor vehicles and other  
11 equipment while actually engaged in work upon the surface of  
12 a highway officially closed to traffic but does apply to such  
13 persons and vehicles when traveling to or from such work. The  
14 minimum speed restriction of section 321.285, subsection 5, and  
15 the provisions of sections 321.297, 321.298, and 321.323 do  
16 not apply to road workers operating maintenance equipment on  
17 behalf of any state or local authority while engaged in road  
18 maintenance, road blading, snow and ice control and removal,  
19 and granular resurfacing work on a highway, whether or not the  
20 highway is closed to traffic.

21 Sec. 3. NEW SECTION. **321.277B Writing, reading, or sending**  
22 **a text-based communication while driving.**

23 1. For purposes of this section, unless the context  
24 otherwise requires:

25 *a. "Electronic communication device"* means an electronic  
26 device, including but not limited to a wireless telephone, a  
27 personal digital assistant, or a portable or mobile computer,  
28 capable of being used for the purpose of writing, reading, or  
29 sending a text-based communication.

30 *b. "Text message"* means a text-based communication  
31 transmitted through the short messaging service (SMS), a  
32 wireless telephone service, or an electronic communication  
33 network by means of a wireless handset or other electronic  
34 communication device.

35 *c. "Write, read, or send a text-based communication"* means

1 using an electronic communication device to communicate  
2 with any person or device using a text-based communication,  
3 including but not limited to a text message, an instant  
4 message, or electronic mail.

5 2. Except as provided in subsection 3, a person shall not  
6 operate a motor vehicle while using an electronic communication  
7 device to write, read, or send a text-based communication.

8 3. This section does not apply to the following:

9 a. A member of a public safety agency while using an  
10 electronic communication device in performance of the member's  
11 official duties.

12 b. A motor vehicle operator using an electronic  
13 communication device in an emergency situation to report  
14 illegal activity or to summon medical or emergency help.

15 c. A commercial motor vehicle operator reading a message  
16 displayed on a permanently installed communication device  
17 designed for a commercial motor vehicle.

18 d. A motor vehicle operator using an electronic  
19 communication device while the motor vehicle's transmission is  
20 in park.

21 e. A motor vehicle operator using a global positioning  
22 system or navigation system that gives directions aloud.  
23 However, a motor vehicle operator shall not enter an address  
24 or type on the global positioning system or navigation system  
25 while the motor vehicle is in motion.

26 4. A person who is convicted of a violation of this section  
27 is guilty of a simple misdemeanor.

28 Sec. 4. Section 707.6A, subsection 2, Code 2009, is amended  
29 by adding the following new paragraph:

30 NEW PARAGRAPH. c. Operating a motor vehicle while writing,  
31 reading, or sending a text message in violation of section  
32 321.277B.

33 Sec. 5. Section 915.80, subsection 2, Code 2009, is amended  
34 to read as follows:

35 2. "*Crime*" means conduct that occurs or is attempted in

1 this state, poses a substantial threat of personal injury or  
2 death, and is punishable as a felony or misdemeanor, or would  
3 be so punishable but for the fact that the person engaging in  
4 the conduct lacked the capacity to commit the crime under the  
5 laws of this state. "*Crime*" does not include conduct arising  
6 out of the ownership, maintenance, or use of a motor vehicle,  
7 motorcycle, motorized bicycle, train, boat, or aircraft except  
8 for violations of section 321.261, 321.277, 321.277B, 321J.2,  
9 462A.7, 462A.12, 462A.14, or 707.6A, or when the intention is  
10 to cause personal injury or death. A license revocation under  
11 section 321J.9 or 321J.12 shall be considered by the department  
12 as evidence of a violation of section 321J.2 for the purposes  
13 of this subchapter. A license suspension or revocation under  
14 section 462A.14, 462A.14B, or 462A.23 shall be considered by  
15 the department as evidence of a violation of section 462A.14  
16 for the purposes of this subchapter.

17

## EXPLANATION

18 This bill prohibits a person from operating a motor vehicle  
19 while using an electronic communication device to write, read,  
20 or send a text-based communication.

21 The bill defines "electronic communication device" to  
22 include a wireless telephone, a personal digital assistant, or  
23 a portable or mobile computer capable of being used to write,  
24 read, or send a text-based communication. "Write, read, or  
25 send a text-based communication" means using an electronic  
26 communication device to communicate with any person or device  
27 by means of a text message, instant message, or electronic  
28 mail. "Text message" includes a text-based communication  
29 transmitted through the short messaging service, a wireless  
30 telephone service, or an electronic communication network.

31 The bill provides exceptions for public safety agency  
32 personnel using an electronic communication device in  
33 performance of official duties; a driver using an electronic  
34 communication device in an emergency situation to report  
35 illegal activity or to summon medical or emergency help; a

1 commercial motor vehicle operator reading a message displayed  
2 on a permanently installed communication device designed for  
3 a commercial motor vehicle; a driver using an electronic  
4 communication device while the motor vehicle's transmission  
5 is in park; and a driver using a global positioning system  
6 or navigation system that gives directions aloud, provided  
7 the driver does not enter an address or type on the global  
8 positioning system or navigation system while the motor vehicle  
9 is in motion.

10 Current provisions applicable to the offense of reckless  
11 driving are mirrored in the bill. The ban on the use of  
12 an electronic communication device to send a text-based  
13 communication applies to a motor vehicle operator on highways  
14 and elsewhere throughout the state and applies to road workers  
15 as well as motorists.

16 A driver who uses an electronic communication device to send  
17 a text-based communication in violation of the bill commits  
18 a simple misdemeanor. A simple misdemeanor is punishable by  
19 confinement for no more than 30 days or a fine of at least \$65  
20 but not more than \$625 or by both. If the violation results  
21 in serious injury to another person the driver is guilty of  
22 a class "D" felony. A class "D" felony is punishable by  
23 confinement for no more than five years and a fine of at least  
24 \$750 but not more than \$7,500. If the violation results in  
25 the death of another person, the driver commits homicide by  
26 vehicle, which is a class "C" felony punishable by confinement  
27 for no more than 10 years and a fine of at least \$1,000 but not  
28 more than \$10,000. A person charged with homicide by vehicle  
29 is subject to driver's license suspension, and upon conviction  
30 the person's license is revoked.

31 Pursuant to existing motor vehicle law, a person who  
32 accumulates convictions for three or more specified motor  
33 vehicle operating offenses within a six-year period is  
34 considered a habitual offender and may be subject to driver's  
35 license revocation for at least two years and not more than

1 six years. The class "C" and "D" felonies under the bill are  
2 included in the list of offenses to be considered for purposes  
3 of habitual offender status.

4 A person convicted of a class "C" felony for homicide by  
5 vehicle or a class "D" felony for serious injury by vehicle  
6 is not eligible to be admitted to bail while appealing the  
7 conviction. A person who is convicted of both homicide by  
8 vehicle and failure to stop and remain at the scene of the  
9 accident is required to serve at least seven-tenths of the  
10 maximum term of confinement.